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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,102	08/29/2003	Ken Thaler	KP8770US	9856

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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,102

Applicant(s)

THALER, KEN

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-12 and 17-20 is/are rejected.
- 7) ☐ Claim(s) 13-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-914)
- 6) ☐ Other: ____.

Christopher P. Schwartz
CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement has been received and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 11, 12, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grassano in view of Duncan.

Regarding claim 1 as can easily be seen from the drawings, Grassano discloses a device with similar structure to that of applicants but lacks disclosing it may be used as a fall arrest device. The resilient compressible material, as broadly claimed, is considered to be the spring. Note the plunger at 40 or 73 in the several embodiments.

Duncan shows a similar device and is relied upon to show that one having ordinary skill in the art could easily have modified the device of Grassano with heavier duty components so that it could be safely used as a fall arrest device.

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Regarding claim 2 these requirements are met in view of the combined teaching of the references above.

Regarding claim 11, these limitations are an obvious alternative equivalent to that of Grassano, as modified by Huang.

Regarding claim 12 the "arresting means", as broadly claimed, could be anything within the device of Grassano which slows or stops the plunger 40,73, such as friction within the tube, the stop on which the piston rests, the action of the valve for fluid flow, etc.

Regarding claim 17 both Grassano and Duncan teach the use of elements which surround the area of the rod near the top of the cap (in the area of 74' in Grassano and 58 in Duncan). The skilled worker in the art at the time of the invention would have found it obvious to have substituted a "grommet" for these elements to limit noise or seal the device against moisture or debris.

Regarding claim 18 these limitations would have been obvious to the skilled worker in the art in view of the discussions above.

Regarding claims 19,20 note the connection means suggested by Grassano or Duncan. Applicant's limitations are simply an obvious alternate equivalent arrangement to the connection means shown by these references and are simply application specific.

5. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grassano in view of Duncan as applied to claim 1 above, and further in view of the publication to Huang '369.

Regarding claim 3 Grassano lacks a showing of using a compressible tubular cushion as the compressible material.

It is well known in the spring and shock absorbing arts that coil springs may be substituted with elastomeric components.

Huang teaches such an elastomer in figures 2 and 4.

It would have been obvious to the skilled worker in the art to have substituted the coil spring of Grassano with an elastomer, as taught by Huang, simply dependent upon the absorbing characteristics desired and less noise.

Regarding claims 4-7 these limitations are simply an obvious alternative equivalent arrangement to that of Grassano as modified by Huang. Note from the figures it appears that Huang can use more than one elastomeric segment.

Regarding claims 8 and 9 such elastomers with the claimed hardness and materials are known in the art. Accordingly one having ordinary skill in this art would have found it obvious to have made the elastomer of Grassano as modified by Huang to the claimed limitations dependent such known factors as cost, availability of materials, and the intended load application of the fall arrest device.

Regarding claim 10, these limitations are an obvious alternative equivalent to that of Grassano, as modified by Huang.

Allowable Subject Matter

6. Claims 13-16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

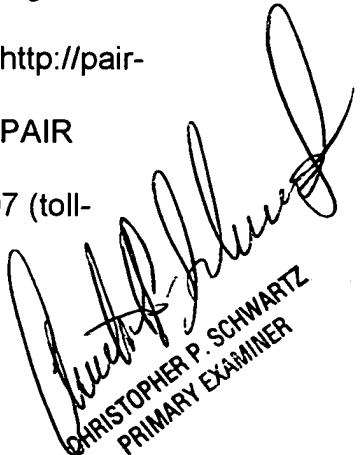
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited have been cited for showing other types of shock absorbing devices. Note the reference to Folkens et al. which uses a similar elastomeric material to that of applicants.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cps
8/20/04


CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER